

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
3:08 MD 1932**

**IN RE FAMILY DOLLAR FLSA
LITIGATION,**

THIS MATTER is before the court on Plaintiffs' Request for Expedited Briefing Schedule on their Motion to Compel (Doc. No. 304) and Defendant's Objection to Plaintiffs' Request (Doc. No. 305.).

On August 28, 2009 Plaintiffs filed a Motion to Compel Production of Privileged Documents and requested an expedited briefing schedule due to the fact that Plaintiffs' opposition to summary judgment motions is due beginning on September 9, 2009. Plaintiffs requested that Defendant file a response to the motion to compel on Thursday September 3, 2009 and that Plaintiffs file a reply in Friday September 4. Defendant filed a response to the request for expedited briefing arguing that an expedited briefing schedule is unnecessary because the documents Plaintiffs seek are allegedly related only to the issues of willfulness and good faith which would only be relevant if Defendant is found liable for violating the FLSA and not on summary judgment. In an event, Defendant also objects to an expedited briefing schedule because Plaintiffs deposed Dennis Merriam as a 30(b)(6) witness last week on his decision to classify store managers as exempt. Defendant's response to Plaintiffs' motion to compel will be based in part on the fact that Mr. Merriam did not rely upon any privileged documents in deciding that store managers should continue to be classified as exempt. Defendant has

requested an expedited copy of the transcript from this deposition so that they can incorporate it in their response to Plaintiffs' motion. Defendant represents that it can respond to Plaintiffs' motion two days after receiving the transcript.

Therefore, Plaintiffs' request that Defendant file a response to Plaintiffs' Motion to Compel by Thursday September 4, 2009 is denied. However, Defendant is directed to file its response to Plaintiffs' Motion to Compel two days after receiving the transcript of Dennis Merriam's deposition.¹ Plaintiffs shall file a reply brief the following day.

SO ORDERED.

Signed: September 1, 2009



Graham C. Mullen
United States District Judge



¹ Defendant shall notify the Court and Plaintiffs' counsel when they receive the transcript.